



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 5, 1998

Ms. Sammie K. Glasco  
Assistant General Counsel  
Texas Department of Banking  
2601 North Lamar Boulevard  
Austin, Texas 78705-4294

OR98-0357

Dear Ms. Glasco:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112981.

The Texas Department of Banking (the "department") received a request for information concerning the International Bank of Corpus Christi, Texas, and the Farmer State Bank of Orange Grove, Texas. You assert that portions of the requested information are excepted from disclosure based on sections 552.101 and 552.111 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure information that is made confidential by law, including information made confidential by statute. You raise section 31.301(a) of the Finance Code, which reads as follows:

(a) Except as expressly provided otherwise by this subtitle, Chapter 11 or 12, or a rule adopted under this subtitle, the following are confidential and may not be disclosed by the banking commissioner or an employee of the department:

(1) information directly or indirectly obtained by the department in any manner, including an application or examination, concerning the financial condition or business affairs of a financial institution or a present, former, or prospective shareholder, participant, officer, director, manager, affiliate, or service provider of a financial institution, other than information in a published statement or in the public portion of a call report or profit and loss statement; and

(2) all related files and records of the department.

You have marked portions of several documents as covered by this provision. You aver that the marked information concerns the financial condition or business affairs of the banks. We agree. Accordingly, the department must withhold the information from public disclosure based on section 552.101 of the Government Code.

You raise section 552.111 in regard to the "comment" portion of a document you say is a complaint. Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.*

We have reviewed the information issue. We believe the information is purely factual. Thus, we find section 552.111 inapplicable to the information in this instance.

However, the comments contain private financial information about two individuals. *See* Open Records Decision No. 600 (1992). Thus, the department must withhold from public disclosure the identities of the two individuals to protect their common-law right to privacy. Gov't Code § 552.101; *see Industrial Found. of the S. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We have marked the document accordingly.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/rho

Ref.: ID# 112981

Enclosures: Marked documents

cc: Ms. Joan T. Neuhaus  
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